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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/827,763 | 04/06/2001 | Gary Seim | 1275.8US01 | 7384 |

7590 05/06/2003

CRAWFOR MAUNU, PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST. PAUL, MN 55120

EXAMINER

BRADFORD, RODERICK D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3762

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,763

Applicant(s)

SEIM ET AL.

Examiner

Roderick Bradford

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 29-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17, 19-22 and 26 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-14, 18, 23-25, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in Paper No. 6 is acknowledged.

The traversal is on the ground(s) that the Examiner's characterization of the combination-subcombination is in error because the Examiner has not asserted a sufficient showing of "distinctiveness" as required to support the restriction of the Group I and II claims has not been established due to events "during an atrial arrhythmia". This is not found persuasive because the subcombination has separate utility such as not requiring inhibiting delivery of pacing signals to the atrium in response to detecting high atrial interval rates, but rather inhibiting delivery of pacing signals to the atrium in response to bradyarrhythmia or low atrial rates.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 29-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Objections

3. Claims 1-14, 18 23-25, and 27 are objected to because of the following informalities:

Referring to claim 1, "pacing signals" is inferentially included and needs to be positively recited and an element should be set forth to deliver the pacing. "The detector detecting" should be deleted and "wherein the detector detects" should be

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inserted as to not conflict with the "in response to..." phrase. "Classified atrial intervals" is unclear, is this suppose to be "previously classified".

Referring to claim 4, "a duration of a detection window" is vague because it is unclear if the control circuit is producing the detection window.

Referring to claim 5, "a post ventricle atrial refractory period (PVARP)" is inferentially included and needs to be positively recited.

Referring to claims 9 and 23, "atrial interval samples" is inferentially included and needs to be positively recited.

Referring to claims 10, 11, 13, 24, 25 and 27, "classified as fast atrial intervals" is vague because no structure has been set forth to classify fast atrial intervals.

Referring to claim 12, "a second satisfaction criterion" is inferentially included and needs to be positively recited.

Referring to claim 18, "a duration of a detection window initiated" is vague because no step has been set forth for a duration of a detection window to be initiated and is inferentially included and needs to be positively recited.

Appropriate correction is required.

Allowable Subject Matter

3. Claims 15-17, 19-22 and 26 allowed.

Conclusion

4. This application is in condition for allowance except for the following formal matters:

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The minor informalities of the objected claims 1-14, 18 23-25, and 27 need to be corrected.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (703) 305-3287. The examiner can normally be reached on Monday - Friday 7 a.m. - 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

R. Bradford
R.B. 5/2/03
May 2, 2003

GE
GEORGE R. EVANISKO
PRIMARY EXAMINER
5/5/03